

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

QUINDEEL LAMAR MITCHELL,

Defendant-Appellant.

UNPUBLISHED

March 18, 2003

No. 237503

Oakland Circuit Court

LC No. 00-176114-FH

Before: O’Connell, P.J., and Fitzgerald and Murray, JJ.

MEMORANDUM.

Defendant appeals as of right his jury conviction for first-degree home invasion, MCL 750.110a(2). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant argues that he was denied his right to counsel at the on-scene identification, that the identification procedure was impermissibly suggestive, and that counsel was ineffective in failing to challenge the identifications. We disagree.

Prompt on-the-scene identification is a reasonable police practice that does not violate a suspect’s right to counsel. *People v Winters*, 225 Mich App 718; 571 NW2d 764 (1997). Where defendant did not challenge the identification as unduly suggestive, there is no record to review, and the issue is not preserved. *Id.* at 729.

To establish an ineffective assistance of counsel claim, defendant first must show that counsel’s performance was below an objective standard of reasonableness under prevailing professional norms. *People v Pickens*, 446 Mich 298; 521 NW2d 797 (1994). The defendant must overcome a strong presumption that counsel’s actions constituted sound trial strategy. *Id.* Second, the defendant must show that there is a reasonable probability that, but for counsel’s error, the result of the proceeding would have been different. *Id.*

In this case, there was no evidence of suggestiveness. The failure to raise meritless issues does not constitute ineffective assistance of counsel. *People v Reed*, 449 Mich 375, 391; 535 NW2d 496 (1995).

Affirmed.

/s/ Peter D. O'Connell
/s/ E. Thomas Fitzgerald
/s/ Christopher M. Murray